

STATE OF IOWA
DEPARTMENT OF COMMERCE
UTILITIES BOARD

IN RE: INTERSTATE POWER AND LIGHT COMPANY	DOCKET NO. E-21686
---	--------------------

**ORDER REGARDING TEMPORARY CONSTRUCTION PERMIT
AND SCHEDULING SHOW CAUSE HEARING**

(Issued July 21, 2004)

In Docket No. E-21635, the Utilities Board (Board) granted Interstate Power and Light Company (IPL) a franchise for 2.65 miles of electric transmission line located outside of Iowa Falls. Other parts of the line were to be located inside the corporate limits of the city of Iowa Falls, so no franchise was required to those parts. On July 6, 2004, IPL notified the Board's Safety and Engineering Section that it had changed the location of a segment of the line. As originally planned, the segment in question did not require a franchise because it was located inside Iowa Falls. By moving the line segment from the north side of the road to the south side, the line will be outside the city limits and a franchise is required, pursuant to Iowa Code § 478.1.

IPL ceased construction on this segment at the request of the Board's Manager of the Safety and Engineering Section. IPL representatives indicated to Board staff that the line location was changed because of the difficulty of obtaining easements on the north side of the road. On July 8, 2004, IPL filed a petition for

franchise for this 72,500-volt maximum 0.5-mile line segment, identified as Docket No. E-21686. IPL also requested a temporary construction permit.

In support of its request for a temporary construction permit (TCP), IPL states that completion of the transmission line is critical for the reliability of the delivery system serving Iowa Falls. Board staff has reviewed the TCP request and has identified several deficiencies. IPL was notified by staff of these deficiencies, which include a failure to show the approval of the appropriate highway authorities in Hardin County.

Iowa Code § 478.31 allows the Board to grant a TCP for lines that do not exceed one mile in length. If the deficiencies identified by Board staff are remedied and IPL otherwise meets the requirements of § 478.31, the Board will grant the TCP. The Board does not want to jeopardize the reliability benefits that completion of the transmission line will bring, but the requirements of the statute and rules must be satisfied before a TCP can be granted.

IPL's notification to the Board of the change in location of the line segment came about as a result of a field inspection performed by one of the Board's engineers on a pipeline project located near the electric transmission line. The inspector asked IPL to explain the impact of the electric transmission line project (which was in the construction process) on the pipeline project. In complying with this request, it became apparent that the 0.5-mile segment under construction required a franchise because it was now located outside Iowa Falls.

Iowa Code chapter 478 governs the franchise of electric transmission lines.

Iowa Code § 478.1 provides, in part:

A person shall not construct, erect, maintain, or operate a transmission line, wire, or cable which is capable of operating at an electric voltage of thirty-four and one-half kilovolts or more along, over, or across any public highway or grounds outside of cities for the transmission, distribution, or sale of electric current without first procuring from the utilities division of the department of commerce a franchise granting authority as provided in this chapter.

Iowa Code chapter 478 provides for a wide range of remedies for violation of its provisions, including injunctive relief or possible criminal sanctions. Iowa Code §§ 478.22 and 478.24. The Board does not believe it is necessary to seek such relief in this case. In addition, Iowa Code § 478.29 provides that “[a] person who violates a provision of this chapter is subject to civil penalty, which may be levied by the board, of not more than one hundred dollars per violation or one thousand dollars per day for a continuing violation, whichever is greater.”

The provisions of Iowa Code chapter 478 are designed to safeguard the interests of ratepayers, adjoining landowners, and the public generally by requiring that before granting a franchise, the Board must determine, among other things, that the proposed line is necessary to serve a public use and represents a reasonable relationship to an overall plan of transmitting electricity in the public interest. Iowa Code § 478.4. The public protection offered by the chapter would be rendered meaningless if utilities fail to comply with its advance approval requirement. Thus, any violation of that requirement is a serious matter. Therefore, the Board will

schedule a hearing for IPL to show cause why civil penalties should not be imposed by reason of the alleged violation of Iowa Code chapter 478 outlined in this order.

IT IS THEREFORE ORDERED:

1. A hearing shall be held for Interstate Power and Light Company to show cause why civil penalties should not be imposed for alleged violations of Iowa Code chapter 478. The hearing will commence at 10 a.m. on September 23, 2004. The hearing shall be held in the Board's hearing room at 350 Maple Street, Des Moines, Iowa 50319-0069. Persons with disabilities requiring assistive services or devices to observe or participate should contact the Utilities Board at (515) 281-5256 in advance of the scheduled date to request that appropriate arrangements be made.
2. Any prehearing motions shall be filed on or before September 1, 2004.
3. Interstate Power and Light Company's request for a temporary construction permit filed July 8, 2004, will be granted if it makes a filing that meets the requirements contained in this order.

UTILITIES BOARD

/s/ Diane Munns

/s/ Mark O. Lambert

ATTEST:

/s/ Judi K. Cooper
Executive Secretary

/s/ Elliott Smith

Dated at Des Moines, Iowa, this 21st day of July, 2004.